

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2401

Introduced by

Senators O'Connell, Olafson

Representatives Hunskor, Klein

1 A BILL for an Act to amend and reenact sections 18-12-04 and 43-19.1-28, subsection 4 of
2 section 48-01.2-01, section 48-01.2-02, subsection 1 of section 48-01.2-04, section 48-01.2-06,
3 and subsection 1 of section 48-01.2-10 of the North Dakota Century Code, relating to
4 requirements for plans and specifications and bids for public improvements.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 18-12-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **18-12-04. Employment of registered architects and engineers.** All plans and
9 specifications for construction, except agricultural sheds and barns, the monetary worth of
10 which is ~~one~~ two hundred thousand dollars or more, must be prepared by and the construction
11 administration and construction observation services supervised by architects or engineers
12 registered in this state. The architect or engineer is legally responsible for designing the
13 building in accordance with ~~the provisions of~~ this chapter of adequate strength so as to resist
14 fire, and constructing the building in a workmanlike manner, according to the plans and
15 specifications as approved. All projects for which the tax money exceeds two thousand dollars
16 must be submitted to the department of public instruction or the board of higher education for
17 approval.

18 **SECTION 2. AMENDMENT.** Section 43-19.1-28 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **43-19.1-28. Public works.** Except as otherwise provided by law, the state and its
21 political subdivisions may not engage in the construction of public works involving the practice
22 of professional engineering when the contemplated expenditure for the project exceeds the sum
23 of ~~one~~ two hundred thousand dollars, unless the engineering drawings and specifications and
24 estimates have been prepared by, and the construction administration and construction

- 1 observation services are executed under the supervision of, a registered professional engineer.
2 Any engineering contract executed in violation of this section is void.

3 **SECTION 3. AMENDMENT.** Subsection 4 of section 48-01.2-01 of the North Dakota
4 Century Code is amended and reenacted as follows:

- 5 4. "Construction" means the process of building, altering, repairing, improving, or
6 demolishing any public structure or building or other improvement to any public
7 property. The term does not include the routine operation or maintenance of
8 existing facilities, structures, buildings, or real property or demolition projects
9 costing less than ~~one~~ two hundred thousand dollars.

10 **SECTION 4. AMENDMENT.** Section 48-01.2-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **48-01.2-02. Plans and specifications for a public improvement contract.** Except as
13 otherwise provided in this chapter, if a contract for the construction of a public improvement is
14 estimated to cost in excess of ~~one~~ two hundred thousand dollars, the governing body shall
15 procure plans, drawings, and specifications for the improvement from an architect or engineer.
16 For a public building in use by or to be used by the North Dakota agricultural experiment station
17 in connection with farm or agricultural research operations, the plans, drawings, and
18 specifications, with the approval of the state board of higher education, may be prepared by an
19 engineer in the regular employment of the agricultural experiment station. For a public building
20 in use by or to be used by the department of transportation for the storage and housing of road
21 materials or road machinery, equipment, and tools, the plans, drawings, and specifications may
22 be prepared by an engineer employed by the department of transportation.

23 **SECTION 5. AMENDMENT.** Subsection 1 of section 48-01.2-04 of the North Dakota
24 Century Code is amended and reenacted as follows:

- 25 1. Except as otherwise provided in this chapter, if the construction of a public
26 improvement is estimated to cost in excess of ~~one~~ two hundred thousand dollars,
27 the governing body shall advertise for bids by publishing for three consecutive
28 weeks. The first publication of the advertisement must be at least twenty-one days
29 before the date of the opening of bids. The advertisement must be published in the
30 official newspaper of the political subdivision in which the public improvement is or
31 will be located, and in a trade publication of general circulation among the

1 contractors, building manufacturers, and dealers in this state, except the
2 advertisement for a public improvement financed by special assessments need be
3 published only once each week for two weeks in the official newspaper with the
4 first publication being at least fourteen days before the bid opening.

5 **SECTION 6. AMENDMENT.** Section 48-01.2-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **48-01.2-06. Bid requirements for public improvements.** Multiple prime bids for the
8 general, electrical, and mechanical portions of a project are required when any individual
9 general, electrical, or mechanical contract or any combination of individual contracts is in
10 excess of ~~one~~ two hundred thousand dollars. If a general, mechanical, or electrical contract is
11 estimated to be less than twenty-five thousand dollars, the contract may be included in one of
12 the other prime contracts. A governing body may allow submission of a single prime bid for the
13 complete project or bids for other specialized portions of the project. A governing body may not
14 accept the single prime bid unless that bid is lower than the combined total of the lowest
15 responsible multiple bids for the project.

16 **SECTION 7. AMENDMENT.** Subsection 1 of section 48-01.2-10 of the North Dakota
17 Century Code is amended and reenacted as follows:

- 18 1. Unless otherwise provided under this chapter, a governing body authorized to
19 enter a contract for the construction of a public improvement in excess of ~~one~~ two
20 hundred thousand dollars shall take from the contractor a bond before permitting
21 any work to be done on the contract. The bond must be for an amount equal at
22 least to the price stated in the contract. The bond must be conditioned to be void if
23 the contractor and all subcontractors fully perform all terms, conditions, and
24 provisions of the contract and pay all bills or claims on account of labor performed
25 and any supplies, and materials furnished and used in the performance of the
26 contract, including all demands of subcontractors. The requirement that bills and
27 claims be paid must include the requirement that interest of the amount authorized
28 under section 13-01-14 be paid on bills and claims not paid within ninety days.
29 The bond is security for all bills, claims, and demands until fully paid, with
30 preference to labor and material suppliers as to payment. The bond must run to

- 1 the governing body, but any person having a lawful claim against the contractor or
- 2 any subcontractor may sue on the bond.